

the claimed feature of “at least one convex portion over the second interlayer insulating film,” the Examiner states that *“it would have been obvious to one of ordinary skill at the time of invention to combine the well known insulating layer with 592 [Murade]”* (emphasis in original).

Hence, the Examiner admits that Murade does not disclose the claimed second interlayer insulating layer, and does not disclose at least one convex portion over the second interlayer insulating film. Therefore, Murade does not disclose each and every element of independent Claim 20. As stated in MPEP 2131, to anticipate a claim, a reference must teach every element of the claim. Accordingly, Murade cannot anticipate independent Claim 20 or those claims dependent thereon. Therefore, it is respectfully requested that the §102 rejection be withdrawn.

Claim Rejections - 35 USC §103

The Examiner also rejects Claims 22, 28, 34, 43, 49 and 55 under 35 USC §103(a) as being unpatentable over Murade. This rejection is also respectfully traversed.

More specifically, similar to Claim 20, independent Claims 22 also recites “at least one convex portion over the second interlayer insulating film.” As explained above, Murade does not disclose the convex portion over the second interlayer insulating film.

The Examiner, however, contends that “it is notoriously well know to cover TFTs with first an inorganic insulating layer to prevent ion leakage from the TFT to the liquid crystal material and on top of the inorganic insulating layer a second organic leveling film to reduce noise. *Accordingly, it would have bee obvious to one of ordinary skill at the time of invention to combine the well known insulating layer with 592 [Murade]*”(emphasis in original).

Initially, it is noted that the Examiner provides no support for his assertion regarding the second interlayer insulating film, but appears to be taking “official notice” of this teaching. As

stated in MPEP 2144.03 “Official notice without documentary evidence to support an examiner's conclusion is permissible only in some circumstances. While ‘official notice’ may be relied on, these circumstances should be rare when an application is under final rejection or action.” Applicants respectfully submit that the Examiner’s rejection herein based on “official notice” is improper. In accordance with MPEP 2144.03, Applicants respectfully request that the Examiner cite documentary evidence to support his contention.

The Examiner also alleges that it would have been obvious to derive the feature of at least one convex portion over the second insulating film from Murade. Applicants respectfully submit that it would not have been obvious to derive at least one convex portion over the second insulating film from Murade and the Examiner’s contention is improper.

In order for the Examiner to modify a reference to reject the claims, there must be some teaching, suggestion or motivation to make such modification. See MPEP 2143.01. Hence, there must be some suggestion or motivation in Murade as to where the second insulating film should be provided. However, there is no suggestion or motivation as to which is better, the second insulating film provided over the at least one convex portion or the second insulating film provided under the at least one convex portion. Hence, this rejection is improper as there is insufficient motivation or suggestion to modify Murade to arrive at the claimed invention.

Accordingly, it is respectfully submitted that independent Claim 22 and those claims dependent thereon are patentable over Murade, and it is requested that this rejection be withdrawn and the claims allowed.

For substantially the same reasons, independent Claim 20 and those claims dependent thereon are also patentable over Murade. Therefore, it is respectfully requested these claims also be allowed.

Conclusion

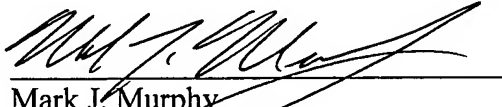
It is respectfully submitted that the present application is in a condition for allowance and should be allowed.

If any fee should be due for this response, please charge our deposit account 50/1039.

Favorable reconsideration is earnestly solicited.

Respectfully submitted,

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